

## ONLY A DREAM OF HARRIMAN

Mr. Milburn Contends That  
Control of Railroads by One  
Man Is Not Practicable.

### GOVERNMENT CASE ARGUED

CONTENTIONS SUSTAINED BY  
THE COURTS.

Washington, April 5.—After two days of argument the interstate commerce commission today concluded its hearing in the investigation of the transactions of E. H. Harriman in Southern Pacific and Chicago & Alton securities, and took the case under advisement. There were three addresses today, one by Attorney John G. Milburn in defense of Mr. Harriman's course; one each by Special Attorneys C. A. Severance and Frank C. Kellogg in criticism of it. Mr. Milburn enlarged upon the contention that the Union Pacific and Southern Pacific had not been competing lines before their consolidation, but urged that even if they were, one of them had the right to purchase the property of the other. Messrs. Severance and Kellogg contended for the application of the anti-trust law to the purchase of the Southern Pacific by the Union Pacific, and Mr. Kellogg criticized sharply Mr. Harriman's dealings in the Chicago & Alton securities.

Washington, April 5.—Continuing his argument today before the interstate commerce commission in support of the legality of Mr. Harriman's railroad operations, Attorney John G. Milburn laid down the following general propositions:

1.—A restraint of trade, to be within the anti-trust act must be the direct, immediate and necessary effect of the transaction, and not merely an indirect or incidental result.  
2.—A restraint of trade consequent upon any purchase of property, in any of its various forms, is incidental merely, and therefore not within the act.  
3.—The purchase must, of course, be real; if a mere device for the suppression of competition, as it was held to be in the Northern Securities case, while it may be effective to operate upon the legal title as between the parties, it is in fact unsubstantial and may be disregarded.  
4.—Provided the purchase be real and substantial, the motive which induced it cannot effect the result; for any resultant restraint of trade is still only consequential and incidental to the exercise of an absolute and undoubted right, that is, the right to acquire property.

Restraint Merely Incidental.

5.—Therefore, the purchase by a railroad company, within its corporate powers, of an interest in another line of railway, is not within the act, because the restraint upon trade, if any, is not direct but merely incidental to the purchase.

6.—If, however, the purchase by a railroad company, within its corporate powers, of a line of railway, made to suppress competition, be obnoxious to the act, that result does not follow if the purchase be made for a legitimate and proper purchase of the purchasing company.

7.—In any event, a purchase by a railroad company of an interest in a line of railway which is not parallel and competing, is not within the act.

8.—The purchase by the Union Pacific of its interest in the Southern Pacific was not made to suppress competition, but to protect its property by an extension of its line in that way to the Pacific coast.

9.—The Union Pacific and Southern Pacific are not parallel or competing lines or systems.

Milburn's Argument.

This summary proved to be the outline of his entire speech, and he followed the presentation of these points with an elaboration of them, giving special attention to the contention that the purchase of the Southern Pacific by the Union Pacific was a legitimate business transaction and not in any way in contravention of the anti-trust law. He said that if the laws of a state by which the Union Pacific was chartered had prohibited such a purchase, could not have been legitimately made, but that in no event could the federal anti-trust law be held applicable.

He contended that the main purpose of the purchase had been to gain a through line from Omaha to San Francisco, and declared that there had been no subterfuge about or hidden motive in the deal. It had been a bona fide purchase, and could not be criticized as a business transaction from any point of view. Having no purpose of preventing competition, it did not fall within the meaning of the Sherman law.

Calling attention to the fact that Mr. Harriman's purchase of Southern Pacific stock had occurred at the same time as his purchase of Northern Pacific stock, Commissioner Lane suggested that the two transactions might indicate a purpose to control competition in transcontinental business, but Mr. Milburn said that the record in the case indicated no such purpose, the two

transactions being independent and separate.

No Motive Shown.

"But is it not a reasonable inference that the primary purpose was to get control of these three great continental lines for the control of rates?" Mr. Lane asked, but Mr. Milburn would not consent that any motive had been shown in the purchase of Southern Pacific stock except to get the line from Ogden to San Francisco.

Taking that portion, it must also take the line from New Orleans to San Francisco and Portland. Moreover, the negotiations for the Southern Pacific stock had begun long before any deal had been made to obtain Northern Pacific stock. "Any other theory is a mere dream," he declared.

"If it is a dream, it is not the dream of this commission, but of Mr. Harriman," responded Mr. Lane, and Mr. Milburn turned his attention to the question whether the Union Pacific or Southern Pacific are parallel and competitive. He declared they were not.

In reply to Commissioner Clements, Mr. Milburn said it was his contention that a purchase such as that made in this case, even though it does effect a restraint of trade, is not controlled by the anti-trust act. It was sufficient that there was a purchase. He would not, however, go to the extent of expressing an opinion as to what should be said in case a monopoly was established.

Harriman Singled Out.

Mr. Milburn complained of the course of the commission in singling out the Harriman interests for investigation, and said he would be pleased to have an inquiry into the entire subject of community interests. He would have the Pennsylvania, the Vanderbilt, the Northern Pacific, the Rock Island and the Great Northern systems inquired into, for all of these had grown up in the eyes of the commission by the acquisition of stock and consolidation and all control of parallel and competing lines. He believed a general inquiry would result in showing the beneficial effects of large concerns. The mere matter of the size of a concern had no terror for him. "If," he said, "the politician would only let the report alone for two or three years and let this commission exercise its present powers in calmness, I believe that many of the problems could be worked out and solved properly."

Mr. Milburn was about to conclude when Commissioner Lane asked him to give his attention to a question.

Harriman's Dream.

"Mr. Harriman," said the commissioner, "stated that but for the restraint of the laws he would take over the Santa Fe and that he would get control of the Northern Pacific. Suppose he had carried out this plan and also controlled the Illinois Central, he would thus control all the lines running into Oregon and California. Did he not have this in mind when he was checked by the restraint of the law?"

Mr. Milburn replied: "I don't think that too much stress should be laid on such a remark. Mr. Harriman was not speaking from a legal point of view, but was expressing an idea in his mind and which cannot be carried into practical operation except through government ownership—from which God save us. His ambition was a mere dream."

In further answer to the question, he elaborated the views already outlined and with an appeal to the commission not to go too far in disturbing existing business relations, closed the case for Mr. Harriman.

Case of the Government.

Mr. Severance made the first address for the government, giving his first attention to the contention that the Sherman anti-trust law does not cover the Union Pacific-Southern Pacific deal, because it was a purchase. He said that the decisions of the supreme court afford sufficient refutation of this contention. He also entered upon an argument to show that it is not necessary that roads should be parallel as well as competing in order to render the law applicable. He said that the principle involved in the pending matter had been definitely determined by the supreme court in the case of Harriman v. The Northern Securities company, in which the court had unanimously held that the exercise of power, whether as owner or trustee, which would give one company control over another to the end that competition is restrained, is in contravention of the Sherman act. Other decisions to the same effect were cited and Mr. Severance expressed the opinion that they fully determined the point that a mere purchase can remove a transaction between railroads from the operation of the Sherman law.

Motive Not the Question.

Mr. Severance also entered into an argument to demonstrate that the motive of a consolidation could not be held properly to affect a transaction; that the effect could be determined under the law. He detailed the transactions under which Senator Clark's Salt Lake road had been brought into the Harriman system, saying it was through a threat of a parallel road. He had no doubt that the deal falls within the Sherman act if it could be shown that the Union Pacific and Southern Pacific are competing lines. He entered upon an argument to show that they do compete, both starting at Oregon and one terminating at the Missouri river and the other at the Mississippi river, and both having connecting lines into Chicago.

Illinois Central Control.

In this connection Mr. Severance spoke of the Union Pacific as controlling the Illinois Central, and Mr. Lovett took exception to the remark. Mr. Severance adhered to his position, saying that it had been shown that the Union Pacific owns 29 1/2 per cent of the stock of the Illinois Central, and that under ordinary conditions this is sufficient to give a substantial control.

Mr. Severance declared that the consolidation of the two roads had had the effect of destroying competition between the various steamship lines upon the Pacific and he quoted statistics to show that much of the business of Oregon, which had been influenced by former competition, does not now enjoy that advantage.

Mr. Severance made the point also that there was much competition between the two lines in Oriental business, and in support of this contention adduced facts to show that formerly the "Sunset Route" reduced rates to secure this business.

The Clark Road.

Speaking again of the Clark road from Salt Lake to Los Angeles, Mr. Severance said that it had completely abandoned to the Union Pacific the power to make rates. "It is as much hitched onto the Union Pacific as if it had been bought outright," he said.

He also charged that the acquisition of Santa Fe stock by the Union Pacific had the effect of causing an arbitrary division of the Oriental business brought to this country in the Santa Fe ships.

The true transportation of California is also no longer the subject of competition, Mr. Severance claimed. This fact was evidence of the lack of competition.

Referring to the purchase of the stocks of eastern roads by the Union Pacific, he expressed the opinion that there should be legislation prohibiting an interstate railroad from engaging in stock speculation.

Mr. Kellogg's Argument.

Frank C. Kellogg also spoke for the government, first replying to Mr. Milburn's suggestion that a general inquiry into railroad combinations and a general verdict against them would be disastrous. Mr. Kellogg did not accept this view, and instead the dissolution of the Northern Securities company in support of his contention. He believed that any plan which would place the railroads of one-third of the country under one control would be in violation of the law. He agreed with Mr. Milburn that the problem was an important one; it must be of supreme importance so long as we adhere to the principle of competition in business. Was it an important fact that Mr. Harriman should use his ambition to control the Santa Fe and the Northern Pacific, or that the Union Pacific, with 2,000 miles of road, should seek to control the Southern Pacific with 7,000 miles? Were the people prepared to allow one man, through purchase or agreement, to tip the transportation facilities of a great empire?

He took the broad position that any restraint upon competition is important, and that the means, whether by purchase or otherwise, is subordinated to the end to be accomplished being the important consideration. Such suppression of competition comes within the inhibitions of the anti-trust law, said Mr. Kellogg, and he declared that such a statement was in line with the decisions of the courts. No one would deny that the Union Pacific might acquire the old Central Pacific line; the inhibition was against the acquisition of the Southern Pacific. That was a competing line, while the Central Pacific was only a connecting line.

Mr. Kellogg contended that parallelism was not essential to competition, and urged that the fact that the Santa Fe traverses the country lying between the Union Pacific and the "Sunset" route did not stand in the way of competition between these two lines. Competition could not be confined to local business, nor so narrowed as to exclude transcontinental business.

The Alton Deal.

Mr. Kellogg then turned his attention to the Chicago & Alton road and Mr. Harriman's connection with it. He said the liabilities of that road had been increased \$50,000,000, "for which," he declared, "the syndicate did not give the company one dollar aside from a moderate equipment. To say it was necessary to make this increase in view of the excellent credit of the road was to his mind incredible. Mr. Harriman had said that \$22,000,000 had been expended on the road, but if that was true not all the money had been a part of the expansion and in his mind he would not say that other roads had not been expanded, but that this was an example to be brought to the attention of congress. All the improvements could have been made by a comparatively slight increase of the road's interest account."

Schiff Also Blamed.

Mr. Kellogg said he did not hold Mr. Harriman more responsible than Mr. Schiff or any other purchaser of the stock.

"We are only interested in him in connection with the transaction," he said. "It is only an incident, and I will say that he has not shirked responsibility."

He claimed the Alton bonds had been sold to Harriman and friends at 65 cents on the dollar when they could have been made to bring par. "No one can say that that is conservative financing," he said. He declared that the proceeds of this sale had been used in paying dividends to the stockholders, the men who had bought the bonds. Deducting the dividends, the bonds had really been obtained for about 48 cents on the dollar. He insisted the country was largely interested in such transactions, and urged that congress should limit the inflation of railroad securities.

Profit-Making Schemes.

The great railroads should not be shaming marks of manipulation in Wall street. There could be no excuse for expanding a railroad's securities merely for the purpose of making a profit out of them. He also urged that the system of bookkeeping was calculated to make obscure the operations to the owners of the Alton. He said that in the recapitulation of the road the losses of the original stockholders which had inured to the benefit of the company to the extent of \$11,000,000 had been utilized as the starting point of that transaction. Those losses had been sustained as far back as 1863, and it looked to Mr. Kellogg like "robbing a graveyard." He denied the right of the directors to take this sum and capitalize it and pay it out as dividends.

"I deny the necessity and the morality of such a course," he said, and expressed the opinion that a restriction should be placed upon such transactions. He did not believe in unreasonable restrictions, but it was not in the interest of the roads themselves that they should be largely utilized for investment.

The hearing was then concluded and the adjournment was made by Mr. Clements that the commission would take the question under advisement.

LABELLED IN ENGLAND.

London, April 5.—Dr. Thomas, the chief health officer of Stepney, during a hearing in a police court today of a charge of selling bad condensed milk, made the statement that "75 per cent of the canned goods imported into this country from America are not labelled, and English firms afterwards put on their own labels."

RIPE OLD AGE.

London, April 5.—Lord Lister, the celebrated surgeon, and Algernon Charles Swinburne, the poet, are today celebrating, respectively, their sixtieth and sixtieth birthdays. Both are in excellent health.

## Non-alcoholic Sarsaparilla

If you think you need a tonic, ask your doctor. If you think you need something for your blood, ask your doctor. If you think you would like to try Ayer's non-alcoholic Sarsaparilla, ask your doctor. Consult him often. Keep in close touch with him. We publish the formulas of all our preparations. J. C. Ayer & Co., Lowell, Mass.

Phones—Independent, 227; Bell, EXCHANGE 22—Call all departments.

# Walker's Saturday Bulletin

Monday the annual rose bush sale begins. Last year's great success insures even greater this year. The assortment is even better than a year ago and the quantity almost double. Come and lay in your Arbor day supply. Sunday's advertisement will give full particulars

## Morning and evening specials from the linen and domestic aisle.

### These from 8 to 9 o'clock Saturday morning only.

Fine sheer Persian lawns, 32 inches wide, worth 25c the yard, 14-yard limit, 8 to 10 a. m. .... 12 1/2c  
India linens, 40 inches wide, worth 25c the yard, limit 10 yards, 8 to 10 a. m. .... 10c  
White Turkish towels, worth 8c each, limit six to a customer, 8 to 10 a. m. .... 4c  
Heavy check loomdye table linen, 60 inches wide, two dozen the limit, 8 to 10 a. m. .... 29c  
Sheer linen cambric, worth 50c the yard, 10 yards to the customer, 8 to 10 a. m. .... 25c  
Heavy check loomdye table napkins, 60 inches wide, worth 65c the yard, limit 6 yards, 8 to 10 a. m. .... 37c  
Pequot sheets, size 81x90, worth \$1 each, limit four to a customer, 8 to 10 a. m. .... 69c  
Pequot pillow cases, size 45x36, worth 25c each, limit six to a customer, 8 to 10 a. m. .... 18c

### These from 4 to 7 o'clock Saturday afternoon only.

Sheer Paris lawn, 48 inches wide, worth 45c the yard, limit 10 yards to the customer, 4 to 7 p. m. .... 19c  
Fine dress and seersucker gingham, very special, with a limit of 12 yards, 4 to 7 p. m. .... 5c  
Embroidered flannels, embroidered on the finest grade of flannel, worth \$1 the yard, limit 4 1/2 yards, 4 to 7 p. m. .... 47c  
Cotton challies, best Persian patterns, ten-yard limit, special from 4 to 7 p. m. .... 4c  
Indian head shrunk linen finish suiting, worth 15c the yard, limit 10 yards to the customer, 4 to 7 p. m. .... 8 1/2c  
White pique suiting, worth 40c the yard, 12 yard limit, 4 to 7 p. m. .... 14c  
Irish batiste lawns, all fast colorings, worth 10c the yard, 4 to 7 p. m. .... 3 1/2c

## One more day of the greatest dress goods sale yet.

One more day in which to buy the newest creations in dress fabrics for spring at prices wonderfully less than values. One more day to select from the finest assortment of fancy suitings sold by the yard we ever offered. Entire stock reduced—no exceptions.

## Saturday bargains in the shoe department.

### Women's oxfords at \$2.95

An elegant assortment—all new, snappy styles; patent colts and fine kids, in welts and turns. All good \$3.50 and \$4.00 regular values. The best selection and finest values you've seen offered this season. Any size or width at \$2.95.

### Children's shoes at 75c the pair.

A very large and splendid assortment of the finest children's lasts we ever received. Hundreds of pairs in the lot—patent tips, in lace or button styles. Excellent stock at \$1.25 the pair. Saturday, any size, at 75c the pair.

### Women's oxfords at \$2.45

Big selection of neat, fetching spring styles—all made up in first-class shape. Representations of the season's best lasts and finest leathers. Values excellent at \$3.00 the pair regular. Saturday, any size or width goes at \$2.45.

### Misses' and children's shoes.

Fine line of plump Dongolas, in lace or button styles.  
Sizes 6 to 8, worth \$1.50 the pair, \$1.15.  
Sizes 8 1/2 to 11, worth \$1.75 the pair, \$1.35.  
Sizes 11 1/2 to 2, worth \$2.00 the pair, \$1.65.

## Greatest spring embroidery sale ends Saturday night.

To finish the most sensational embroidery sale of the season we have cut all remaining pieces up into one and a half to four yard lengths and marked the prices even lower. Come the last day and participate.

### Women's and children's knit underwear.

A full assortment of the season's best productions will be found in these departments—all the weights and kinds are represented, and prices are always right. Women's union suits are especially well represented this season. A very splendid line at 50c to \$1.00 the suit.

### Men's night shirts at 50c each.

A splendid value, well worth 75c each—made of fine muslins and cambrics, full fashioned and thoroughly made in every respect. An excellent Saturday special at 50c.

## Linen embroidered scarfs and squares special priced.

These are in the art needlework section—A very excellent assortment of hand embroidered pieces—embroidered on tan and grass linens—reductions go like this:

\$6.00 values—special, \$3.00. \$7.50 values—special, \$4.00

## Finest graniteware kitchen utensils at very special prices Saturday.

One-quart pudding pan, Saturday special...15c  
One and a half-quart pudding pan, Saturday special...20c  
Two-quart pudding pan, Saturday special...25c  
One-quart preserving kettle, Saturday special...25c  
Two-quart sauce pan, Saturday special...25c  
Six-quart sauce pan, Saturday special...50c  
Ladle, Saturday special...10c  
No. 45 coffee pot, Saturday special...65c  
Rice boiler, Saturday special...\$1.80  
Stew kettle, in all sizes, at 20c each and up.  
Two-quart teapot, Saturday special...45c  
No. 8 preserving kettle, Saturday special...75c  
Straight saucepan, four-quart size, Saturday special...49c  
Six-quart straight saucepan, Saturday special...59c  
Drinking cups, Saturday special...20c  
Handled dippers, Saturday special...19c  
No. 8 teakettle, Saturday special...\$1.25  
No. 3 frying pan, Saturday special...39c  
No. 5 frying pan, Saturday special...49c  
No. 2 frying pan, Saturday special...29c

"Busv' basement."

### JEROME-HEARST SUITS.

Demurrer Interposed by Defendant Companies Overruled.

New York, April 5.—The appellate division of the supreme court today handed down a decision affirming the interlocutory judgments by Justice O'Gorman in two cases for libel brought by William Travers Jerome, one against the Star company and the other against the New York Evening Journal Publishing company. Justice O'Gorman overruled demurrers

interposed by the defendant companies, and those interlocutory judgments are now affirmed by the appellate division, but with leave to the defendant to withdraw demurrers and to answer on payment of costs.

### BARGAINS.

We have a few slightly scratched genuine "Singers" latest improved, which can be purchased or leased on very small payments at greatly reduced prices. Call early at Singer store, 43 South Main street.

### THE NEW HOWARD WATCH

Is superior to all others.

Phone 65 for the correct time.



## SALT LAKE THEATRE

TONIGHT—LAST TIME  
Reappearance of the University  
Dramatic Club, in the one-act play,  
A Match for a Magistrate  
and  
MR. BOB

Prices—25c to \$1.00.

SPECIAL.  
San Carlo Opera Company, April 15, 16  
and 17; 160 artists, including

## MME. NORDICA

Miss Alice Neilson  
Signor Constantino

Season tickets now on sale at box office. Sale for single nights, Monday, April 8.

Monday Night—"La Boheme," with ALICE NIELSON and CONSTANTINO.

Tuesday—"Faust," with MADAM NORDICA.

Wednesday matinee—"Barber of Seville," and "Pagliani," with ALICE NIELSON, SIGNOR CONSTANTINO and Mlle. DEREYNE.

Prices—Box and loge seats, parquette and three rows dress circle, \$5; first balcony, \$4 and \$3; second balcony, \$2.50 and \$2.

## Opheum

MODERN VAUDEVILLE.

ALL THIS WEEK

Matinee—Papina, Rialto Comedy Four, Alice Davenport & Co. Tomorrow—Schellberg, Dorothy Kenton, Charlotte Ravenscroft, Kinodrome.

Every evening (except Sunday), 7:30, 8:00, 8:30, 9:00. Box seats, \$1.00. Matinees Daily Except Sunday and Monday, 5:00, 5:30, 6:00. Box seats, 75c.

## Grand Theatre

A. M. COX, Manager.

Matinee Today, 2:30 P. M. Tonight, 8:15.

THE LEIGHTON PLAYERS, Presenting Edwin Milton Royle's Play.

## "FRIENDS."

Matinee, reserved seats, 25c. Evenings, 25c, 50c, 75c and \$1.00. Next week "INCOG."

## LYRIC THEATRE.

SULLIVAN & CONSIDINE, Props. Week Commencing Saturday Matinee, April 6, 1907.

A Wonderful Vaudeville Program. Frank Combs and Muriel Stone in "The Charles H. Duncan, Jolly Singing Comedian."

Williams & Rose present "Christmas Eve."

William Windom, the Ex-Minister. Kurtis & Busse, with their trained Fox.

Leon Le Chartiers, Singer. LyricScope Motion Pictures.

Evenings—Two complete performances; matinees daily except Sunday.

Prices, 10, 20, 30 cents. Extra, Sunday evening, three complete shows; first one at 7 p. m.

## Auditorium

RICHARDS ST. ROLLER SKATING

## Grand Two-Stepping Contest

Starting Monday, April 1, two couples will qualify each evening for the grand final which takes place Saturday, April 6, at 9:30 p. m. Two gold medals will be awarded, one to the lady and the other to the gent who is selected by the judges for the first place; second prizes, a pair of aluminum skates; third prizes, five-pound silver cups. Children under 15 cannot enter contest. A similar contest is being held at Ogden. The winner of each contest will be asked to represent their respective cities in a final contest. One evening at Ogden and one evening at Salt Lake; third contest to be decided by toss of coin.

Summer Prices Commencing Monday, April 1, admission afterwards. Gents, 10c; evenings, 15c; ladies admitted free at all sessions. Skates 25c.

MUSIC BY HELD'S BAND.

Ring open mornings, 10 to 12; afterwards, 2 to 5; evenings, 7:30 to 10:30.

## Special Sale Wash Rags

5c and 10c

## HALLIDAY DRUG CO.

Between Salt Lake and Orpheum Theatres.

Meeting place for theatre parties.

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J. H. Knickerbocker, O. D. Practical Optician. 143 Main St.

Are you a physical bankrupt? Are your nerves shattered and your body wasted by overdrafts on your vital resources? Draw on Scott's Emulsion. It is rich in the assets wrecked systems need—cod liver oil to make fat and tissue, and hypophosphites to build nerve and bone.

All druggists, 50c. and \$1.00.